

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

IN RE:	)	
	)	
<b>John C. Hill, III</b>	)	<b>Case No. 13-13406-JDL</b>
<b>Naomi L. Hill</b>	)	<b>Chapter 13</b>
	)	
Debtors.	)	

**APPLICATION FOR CONTINUANCE OF  
HEARING ON OBJECTION TO CLAIM NUMBER 6**

COMES NOW John Hardeman, Chapter 13 Trustee, and files his application to continue the hearing on the Objection to Claim Number 6 currently set for December 20, 2016. In support of his request, the Trustee would show the Court the following:

1. The debtors' plan, filed on July 27, 2013, provides for payment of a first mortgage to JP Morgan Chase Bank, N.A. ("Chase") as a long-term debt extending beyond the term of the plan. The Schedule D filed by the debtors indicates the last four digits of the Chase account number are 2251. The plan also provides for payment in full with 5% interest of a second mortgage with Specialized Loan Servicing, LLC. ("SLS"). The Schedule D filed by the debtors indicates the last four digits of the SLS account number are 2406.

2. On September 30, 2013, Residential Funding Mortgage Securities II, Inc. ("Residential") filed claim 6 covering the second mortgage in the amount of \$32,622.42. The claim indicates an account number ending in 2406 and that notices and payments should be sent to SLS.

3. The Order Confirming Plan entered on November 7, 2013 provides treatment consistent with the plan filed by the debtors, but identifies the holder of the

second mortgage as Residential based on the above-referenced claim filed by Residential on September 30, 2013.

4. On October 28, 2013, a Transfer of Claim ("TOC-1") was filed by Robert Hauge, as the agent of SRMOF II 2012-1 Trust, U.S. Bank Trust National Association, as Trustee. TOC-1 notices the transfer of Claim 6-1 in the amount of \$32,622.42 from Residential to SRMOF/US Bank with notices and payments to be mailed to Selene Finance, LP. TOC-1 also provides notice that the last four digits of the transferor account number were 2406 and that the last four digits of the transferee account number are 2858. Notice of the proposed transfer was provided to SLS at the address reflected on TOC-1. An Order of Substitution was entered on November 22, 2013 approving the transfer reflected on TOC-1. After consultation with counsel for the debtors and a representative of Residential, it is believed by the Trustee that TOC-1 was either filed in error and/or filed utilizing erroneous information.

5. On December 1, 2013, based on the entry of the Order Confirming Plan on November 7, 2013 and the Order of Substitution on November 22, 2013, the Trustee commenced disbursements to US Bank Trust NA c/o Selene Finance, at 9990 Richmond Ave., Ste. 400, Houston, TX 77042, the purported holder of the second mortgage. From December 1, 2013 through the November 30, 2016, the Trustee disbursed a total of \$31,421.26 to US Bank Trust NA c/o Selene Finance on account of the second mortgage.

6. On December 10, 2013, SRMOF II 2012-1 Trust ("SRMOF") filed claim 15 covering the first mortgage in the amount of \$137,211.02. The claim indicates an account number ending in 2858 and that notices and payments should be sent to Selene

Finance, LP. Based on the filing of this claim, the Trustee commenced disbursements to the holder of the first mortgage on January 1, 2014. From January 1, 2014 through August 30, 2016, the Trustee disbursed to SRMOF \$37,118.52 on account of the continuing first mortgage, \$14,231.24 on account of the first mortgage pre-petition arrearage, and \$1,072.35 on account of the first post-petition mortgage payment on the first mortgage.

7. On August 22, 2016, a Transfer of Claim ("TOC-2") was filed by U.S. Bank Trust National Association ("US Bank"). TOC-2 notices the transfer of Claim 15 in the amount of \$137,211.02 from SRMOF to US Bank with notices and payments to be mailed to SN Servicing Corporation. TOC-2 also provides notice that the last four digits of the transferor account number were 2858 and that the last four digits of the transferee account number are 7136. Notice of the proposed transfer was provided to SRMOF in care of the law firm of Kivell, Rayment and Francis, P.C. An Order of Substitution was entered on September 19, 2016 approving the transfer reflected on the TOC-2. Based on TOC-2 Order of Substitution, from September 1, 2016 through November 30, 2016, the Trustee disbursed to US Bank \$3,093.21 on account of the continuing first mortgage, and \$1,261.08 on account of the first mortgage pre-petition arrearage.

8. On or about October 5, 2016, Selene Finance began returning the disbursement checks issued to US Bank c/o Selene Finance on account of the second mortgage. In an attempt to resolve the issue, a member of the staff of the Trustee contacted Selene Finance and was advised by a representative of Selene Finance that it did not hold the second mortgage and has never held the second mortgage. Based

primarily upon that conversation, on October 26, 2016, the Trustee filed an objection to claim 6 based upon the failure of the creditor to accept payments from the Trustee.

9. On November 2, 2011, the debtors responded to the objection to claim stating the debtors would contact the creditor to determine the reason for the refusal of payments and further stating their desire that the debt be paid based on the fact it was co-signed by the father of one of the debtors.

10. In a recent discussion regarding the objection to claim, Debtors' counsel advised the undersigned that he had performed an exhaustive search of the Cleveland County land records, and found no evidence the second mortgage had ever been transferred. Following that conversation, undersigned counsel contacted Residential and was advised by a representative of Residential that it still held the second mortgage and that the mortgage had not been transferred during the term of the plan. Based upon that conversation and the prior conversation with a representative of Selene Finance, it appears TOC-1 was filed in error and/or contained erroneous information.

11. At the time TOC-1 was filed, Robert Hauge was employed by Baer & Timberlake. However, he is no longer employed by Baer & Timberlake. Undersigned counsel discussed this matter with Jim Timberlake, who indicated a willingness to voluntarily assist in resolving the matter. Additionally, undersigned counsel was recently advised that Gooding Law Firm has been retained by US Bank in connection with the objection to claim.

12. It is clearly important to all parties that the second mortgage be satisfied. Neither Mr. Timberlake nor Gooding Law Firm have had sufficient time to determine

whether the conclusions reached by the Trustee and the debtors are accurate. Whether those conclusions are accurate or inaccurate, the issues are of a complicated nature that cannot be resolved within a brief timeframe. For that reason, the Trustee requests the Court continue the hearing on this matter for 60 days. It is anticipated it will take in excess of 60 days to resolve this matter. However, at this time, an extension of only 60 days is sought by the Trustee. Counsel for all parties in interest consent to this request for a continuance.

Wherefore, John Hardeman, Chapter 13 Trustee, for the reasons set forth above, respectfully requests the hearing on the Objection to Claim Number 6 be continued to February 22, 2017 at 8:30 a.m.

Respectfully submitted,

s/Linda Ruschenberg  
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#### **CERTIFICATE OF MAILING**

This is to certify that on the 12<sup>th</sup> day of December, 2016, a true and correct copy of the foregoing document was mailed by first-class mail, postage pre-paid, to all parties listed on the attached address list.

s/Linda Ruschenberg